IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE FOURTH DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE SRI JUSTICE C.V.RAMULU

WRIT PETITION No.8776 of 2000

Between:

B.B.Tiwari, S/o.A.R.Tiwari,

CISF Head Constable, CISF Unit,

BDL, Kanchanbagh, Hydeabad. **..... PETITIONER**

AND

1.The Commandant, Central Industrial

Security Force, Group Head Quarters,

NISA, Hakeempet, Hyderabad-78.

2.The Dy.Commandant, Central Industrial

Security Force, BDL, Kanchanbagh,

Hyderabad. **.....RESPONDENTS.**

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court may be pleased to issue any appropriate writ, order or direction, preferably a writ in the nature of mandamus declaring impugned Proceedings E-37060/52/BBT/Ad.II/2000/2075, dt.24-4-2000 issued by respondent No.1 as illegal, arbitrary and unconstitutional and further direct the respondents to continue the petitioner in service as per Section

47(1) of Persons with Disability (Equal Opportunities for Protection of Rights and Full Participation) Act 1995 with all benefits.

Counsel for the Petitioner: Mr.ANJANEYULU CHANDUBATLA

Counsel for the Respondents : Ms.K.M.J.D.SYAMA SUNDARI,

ADDL.STANDING COUNSEL FOR

CENTRAL GOVT.

The Court made the following :

ORAL ORDER:

The petitioner, while in service of Central Industrial Security Force (CISF), was examined by the Medical Board and the Board issued an invalidation certificate vide Certificate No.MRD/MB/GHS/99/2000/103, dated 15-4-2000 stating that he is completely and permanently incapacitated for further service of any kind in the CISF. Consequently, he was discharged from service and was compulsorily retired on medical grounds subject to certain conditions mentioned in the impugned proceedings dated 24-4-2000. The said impugned order is challenged mainly on the ground that as per the provisions of Section 47 of Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995, the petitioner is entitled for being accommodated in any alternative post.

Learned Additional Standing Counsel for Central Government has produced before this Court a notification dated 10-9-2002 issued by the Ministry of Social Justice & Empowerment, Government of India, which reads as under.

NOTIFICATION

S.O.: In exercise of the powers conferred by proviso to Section 47 of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 (1 of 1996) the Central Government having regard to the type of work carried on hereby exempt all categories of posts of “combatant personnel” only of the Central Para Military Forces (CPM’s) namely, Central Reserve Police Force (CRPF), Border Security Force (BSF), Indo-Tibetan Border Police (ITBP), Central Industrial Security Force (CISF) and Assam Rifles from the provisions of the said section.

In view of the above, the question of continuing the petitioner in service in any

alternative post by invoking the provisions of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995, does not arise. The writ petition is devoid of merits and is liable to be dismissed and is accordingly dismissed. However, the petitioner is not precluded from making a representation seeking benefits admissible for such like personnel in the CISF. If any such representation is made, the same may be considered as per law. No costs.

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(C.V.RAMULU, J.)

4th November 2004.

ARS

To

1.The Commandant, Central Industrial Security Force, Group Head Quarters, NISA, Hakeempet, Hyderabad-78.

2.The Dy.Commandant, Central Industrial Security Force, BDL, Kanchanbagh, Hyderabad.

3. Two CD copies.